

Negotiation as a Primary Conflict Management Tool for Fairness: Retaining Maximum Control over the Outcome

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Abstract

This paper examines the role of negotiation as a primary conflict management tool. The paper observes that negotiation is one of the most basic and appropriate process that can ensure effective conflict management for peace, security and development. The paper discusses the key features and advantages of negotiation that makes it an appropriate process in conflict management. Despite its role as a primary conflict management tool, the paper observes that negotiation also faces several challenges that can undermine fairness, justice and equity. It examines some of the fundamental concerns in negotiation. In light of underlying challenges, the paper posits that it is imperative to strengthen the role of negotiation as a primary conflict management tool for fairness. The paper suggests how this ideal can be unlocked including through enabling parties to retain maximum control over the process and outcome.

1.0 Introduction

Effective conflict management plays a key role in ensuring peace, stability, and development. It has been observed that in most contexts, development is not feasible in conflict situations¹. Conflicts usually result in deaths and injuries, displacement of populations, the destruction of assets, environmental damage and degradation, and the disruption of social and economic systems undermining peace and development². The United Nations notes that conflicts are major threat to the achievement of Sustainable Development³. Further, it has been observed that the Sustainable Development Goals (SDGs) have an intrinsic relationship to peace and stability⁴. The

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¹ Muigua. K & Kariuki. F., 'ADR, Access to Justice and Development in Kenya.' Available at <http://kmco.co.ke/wp-content/uploads/2018/08/ADR-access-to-justice-and-development-in-KenyaRevised-version-of-20.10.14.pdf> (Accessed on 24/10/2026)

² Mahler. D. G., & Vishwanath. T., 'When the Consequences of Conflicts Last Generations: Intergenerational Mobility in Iraq and Vietnam.' Available at <https://blogs.worldbank.org/dev4peace/when-consequences-conflicts-last-generations-intergenerational-mobility-iraq-and-vietnam#:~:text=They%20include%20deaths%20and%20injuries,of%20social%20and%20economic%20systems>. (Accessed on 24/10/2026)

³ United Nations., 'No Peace, No Sustainable Development: A Vicious Cycle that We Can Break.' Available at <https://www.un.org/en/chronicle/article/no-peace-no-sustainable-development-vicious-cycle-we-can-break> (Accessed on 24/10/2026)

⁴ Ibid

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2030 Agenda for Sustainable Development⁵ recognises that there can be no Sustainable Development without peace and no peace without Sustainable Development⁶.

Due to the negative impacts of conflicts on peace, security, and development, effective, appropriate and expeditious management of conflicts is necessary in order to spur Sustainable Development. Conflict management is an ongoing process by which conflicts are identified and addressed in a fair, efficient, expeditious and sustainable manner⁷. Various approaches and techniques can be adopted towards managing conflicts ranging from the most informal negotiations between the parties themselves through increasing formality and more directive interventions from external sources to a full court hearing with strict rules of procedure⁸.

In addition, conflict management can take different approaches including *avoidance* where some or all people involved in a conflict simply avoid the situation or ignore its existence⁹; *competition* which involves one party winning, and one party losing in relation to the issues in dispute¹⁰; *compromise* which involves parties sacrificing their positions in order to aid a resolution¹¹; and *collaboration* wherein all parties involved are brought together for a resolution through active listening and respectful communication¹². It has been observed that collaboration is the most appropriate and sustainable approach to conflict management. For example, through collaboration, it is possible to identify and address the root causes of conflicts, preserve relationships, build trust, and promote long-term and sustainable outcomes¹³. Utilising strategies that focus on collaboration is therefore key towards effective, appropriate, and sustainable conflict management. Such processes include negotiation, mediation, and conciliation among others.

This paper examines the role of negotiation as a primary conflict management tool. The paper observes that negotiation is one of the most basic and appropriate process that can ensure

⁵ United Nations General Assembly., 'Transforming Our World: the 2030 Agenda for Sustainable Development.' 21 October 2015, A/RES/70/1., Available at <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf> (Accessed on 24/10/2026)

⁶ Ibid

⁷ Institute of Directors., 'Conflict Management' Available at <https://www.iod.com/resources/business-advice/conflict-management/> (Accessed on 24/10/2026)

⁸ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Glenwood Publishers Limited, 2015

⁹ Ronquillo. Y et al., 'Conflict Management' Available at <https://www.ncbi.nlm.nih.gov/books/NBK470432/> (Accessed on 24/10/2026)

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

¹³ Miroslavov. M., 'Mastering the Collaborating Conflict Style In 2024' Available at <https://www.officernd.com/blog/collaboratingconflictstyle/#:~:text=It's%20one%20of%20the%20strategies,their%20underlying%20needs%20and%20interests> (Accessed on 24/10/2026)

effective conflict management for peace, security and development. The paper discusses the key features and advantages of negotiation that makes it an appropriate process in conflict management. Despite its role as a primary conflict management tool, the paper observes that negotiation also faces several challenges that can undermine fairness, justice and equity. It examines some of the fundamental concerns in negotiation. In light of underlying challenges, the paper posits that it is imperative to strengthen the role of negotiation as a primary conflict management tool for fairness. The paper suggests how this ideal can be unlocked including through enabling parties to retain maximum control over the process and outcome.

2.0 Negotiation and Conflict Management: Benefits and Challenges

Negotiation is an informal process of conflict management that involves parties to a conflict meeting to identify and discuss the issues at hand so as to arrive at a mutually acceptable solution without the help of a third party¹⁴. Negotiation has also been described as a strategic form of communication where conflicting parties engage in discussions to address their respective needs, interests, and concerns¹⁵. At its basic level, negotiation involves direct discussions between parties to find a mutually acceptable solution to their disagreement¹⁶. The United Nations points out that negotiation is a way of coping with disagreement, with varying views and with different objectives through agreement¹⁷. Negotiation can also be viewed as dialogue between two or more parties with the intention of reaching a mutually beneficial outcome or resolving a conflict or dispute¹⁸.

It has been observed that negotiation is one of the most fundamental methods of managing conflicts which offers parties maximum control over the process and outcome¹⁹. Negotiation is well known and practiced in all fields of human activity²⁰. It has been identified as a way of resolving conflicts and disputes without fighting, and a way of making joint decisions when those who are making decisions hold different views²¹. Negotiation is usually the first port of call when parties want to resolve their dispute. It has been observed that negotiation is practiced by human beings on a daily basis with people often discussing to meet their respective needs, concerns and

¹⁴ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

¹⁵ The Role of Negotiation in Conflict Resolution Strategies., Available at <https://www.karrass.com/blog/conflict-resolution-strategies> (Accessed on 24/10/2026)

¹⁶ Oba. A., 'Comprehensive Guide to Conflict Resolution: Traditional and Modern Methods in East Africa' Available at <https://remedialcorner.com/blog/comprehensive-guide-to-conflict-resolution-traditional-and-modern-methods-in-east-africa/> (Accessed on 24/10/2026)

¹⁷ United Nations., 'Fundamental of Negotiation' Available at <https://www.un.org/en/model-united-nations/fundamentals-negotiation> (Accessed on 24/10/2026)

¹⁸ Corporate Finance Institute., 'Negotiation' Available at <https://corporatefinanceinstitute.com/resources/management/negotiation/> (Accessed on 24/10/2026)

¹⁹ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

²⁰ United Nations., 'Fundamental of Negotiation' Op Cit

²¹ Ibid

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interests and solve conflicts²². The premise of negotiation is that parties find it preferable to search for an agreement through discussions rather than fight openly, give in, or break off contact²³.

Negotiation is associated with several features and advantages which makes it an ideal process in conflict management. For instance, it has been observed that negotiation usually involves open dialogue, collaboration, active listening, compromise, and sometimes concessions among parties to a conflict towards sustainable outcomes²⁴. In particular, by emphasizing dialogue and collaboration among parties, negotiation promotes win-win outcomes while also enabling parties to design agreements which reflect their needs and interests²⁵. Since it focuses on collaboration, negotiation has been described as a powerful approach to conflict resolution built on cooperation, open communication, and finding win-win outcomes²⁶. Collaborative approaches towards conflict management including negotiation aim to preserve relationships, build trust, and promote long-term positive change²⁷. It has been correctly observed that collaborative approaches, such as negotiation, are ideal when it is necessary to maintain all parties' relationships or when the solution itself will have a significant impact on a large group of people²⁸.

Utilising negotiation is therefore key towards ensuring effective management of conflicts for peace, stability, and development. Since negotiation is voluntary and consensus-based, it leads to resolutions and outcomes that are longer lasting and more sustainable than adversarial processes or otherwise imposed outcomes²⁹. Further, collaborative processes such as negotiation are ideal in addressing the root causes of conflicts by encouraging active listening, voluntary participation, cooperation, open and respectful communication, and empathy thus providing a platform for parties to work together towards win-win, mutually satisfactory and durable outcomes³⁰. In

²² Ibid

²³ Maiese. M., 'Negotiation' Available at <https://www.beyondintractability.org/essay/negotiation> (Accessed on 24/10/2026)

²⁴ The Role of Negotiation in Conflict Resolution Strategies., Op Cit

²⁵ Negotiation., Available at <https://www.justice.gc.ca/eng/rp-pr/csj-sjc/dprs-sprd/res/drrg-mrrc/03.html#:~:text=Negotiations%20allow%20the%20parties%20to,the%20form%20of%20an%20agreement> (Accessed on 24/10/2026)

²⁶ Miroslavov. M., 'Mastering the Collaborating Conflict Style In 2024' Op Cit

²⁷ Ibid

²⁸ Isenhardt. M.W., & Spangle. M., 'Summary of "Collaborative Approaches to Resolving Conflict"' Available at <https://www.beyondintractability.org/bksum/isenhardt-collaborative> (Accessed on 24/10/2026)

²⁹ United Nations Environment Programme., 'Natural Resources and Conflict: A Guide for Mediation Practitioners' Available at https://peacemaker.un.org/sites/peacemaker.un.org/files/NRCMediation_UNDPAUNEP2015_0.pdf (Accessed on 24/10/2026)

³⁰ Mediation: The Art of Collaborative Conflict Resolution., Available at <https://legalservicesdubai.com/mediation-the-art-of-collaborative-conflict-resolution-understanding-its-processes-and-advantages/> (Accessed on 24/10/2026)

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addition, by opting for negotiation, parties may also reduce costs and delays associated with other dispute resolution processes such as arbitration and litigation³¹.

Due to its attributes and advantages, it has been observed that negotiation has emerged as a primary and essential tool for conflict resolution and fostering cooperation especially in an era of globalization and intercultural interactions³². From international diplomacy, business deals and personal relationships, strong negotiation skills usually determine the success or failure of an endeavour³³. It has been pointed out that due to its informality, efficiency, voluntariness, expeditiousness and cost-effectiveness, negotiation can be applied in multiple contexts including interpersonal, intergroup and workplace conflicts, enabling parties to resolve conflicts amicably before escalation³⁴.

Despite its appropriateness in ensuring effective conflict management, the suitability of negotiation can be undermined in certain instances. For example, voluntary participation of parties is an essential element for successful negotiation. It has been correctly observed that both parties must be ready to negotiate if the process is to succeed³⁵. Consequently, if efforts to negotiate are initiated too early, before both sides are ready, or if a party is coerced into negotiation, the process is likely to fail³⁶. In addition, since negotiation is non-binding, there is a risk of disputes escalating when parties fail to comply with negotiated agreements, a situation that can lead to the use of adversarial processes such as litigation and arbitration which can damage relationships³⁷. Power imbalance is another major concern in negotiation. This usually arises due to unequal financial, institutional, personality, and physical leverage, which can lead to the stronger party dominating the disadvantaged party making them to accept unfair and unjust outcomes³⁸. In addition, it has been observed that unlike other collaborative processes such as mediation and conciliation where a neutral third party helps parties to work through their disagreement, absence of a neutral third party in negotiation can result in breakdown in communication and dialogue due to misaligned goals or emotional tension³⁹.

It is imperative to address the foregoing concerns in order to enhance the role of negotiation as a primary conflict management tool for fairness and justice.

³¹ Ibid

³² Negotiations., Available at <https://www.diplomacy.edu/topics/negotiations/> (Accessed on 24/10/2026)

³³ Negotiation., Op Cit

³⁴ Ibid

³⁵ Maiese. M., 'Negotiation' Op Cit

³⁶ Ibid

³⁷ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

³⁸ Overcoming the Most Common Challenges of Negotiation., Available at <https://www.karrass.com/blog/your-negotiation-challenges> (Accessed on 24/10/2026)

³⁹ Ibid

3.0 Strengthening Negotiation as a Primary Conflict Management Tool for Fairness and Justice

Negotiation is one of the most fundamental process of conflict management. At its core, negotiation is a strategic form of communication and dialogue where conflicting parties engage in discussions to address their respective needs, interests, and concerns⁴⁰. Negotiation is an appropriate forum for managing conflicts since this process is not about winning or losing⁴¹. Rather, it has been observed that negotiation focuses on creating outcomes that are satisfactory to all parties involved⁴². If well approached, negotiation can help parties to strengthen their relationship, build long-term value, and avoid expensive and confrontational dispute resolution processes such as arbitration and litigation⁴³.

Due to its advantages, it has been correctly observed that negotiation is a primary tool of conflict management which is at the heart of the conflict resolution process⁴⁴. By emphasizing active and respectful communication, empathy, sharing, and collaboration, negotiation enables people to move from disagreement to agreement⁴⁵. However, in light of concerns such as power imbalances, non-compatibility of interests, and non-binding outcomes, it is imperative to strengthen the role of negotiation as a primary conflict management tool for fairness and justice. In particular, it is imperative for parties to embrace effective negotiation skills including active listening, open and respectful cooperation, empathy, cooperation, collaboration, and compromise, where needed, in order to ensure the success of negotiation as a primary conflict management tool⁴⁶. Further, in an era of globalization where negotiation may happen in a multicultural context, it is necessary for parties to approach the negotiation process with an open mind, respect each other's cultural views and opinions, use interpreters to manage linguistic and cultural differences, and embrace compromise⁴⁷. In addition, due to its non-binding nature, the success of negotiation largely hinges on the ability of the parties to comply with negotiated outcomes. It is therefore necessary for the parties to comply with outcomes in negotiation in order

⁴⁰ The Role of Negotiation in Conflict Resolution Strategies., Op Cit

⁴¹ Ibid

⁴² Ibid

⁴³ 3 Negotiation Strategies for Conflict Resolution., Available at <https://www.pon.harvard.edu/daily/dispute-resolution/3-negotiation-strategies-for-conflict-resolution/> (Accessed on 24/10/2026)

⁴⁴ The Role of Negotiation in Successful Conflict Resolution., Available at <https://www.investigationandmediation.com.au/how-does-negotiation-help-in-the-conflict-resolution-process/#:~:text=Negotiation%20is%20at%20the%20heart,creates%20fair%20and%20lasting%20solutions> (Accessed on 24/10/2026)

⁴⁵ Ibid

⁴⁶ The Role of Negotiation in Conflict Resolution Strategies., Op Cit

⁴⁷ Guide to Culturally Appropriate Communication Techniques., Available at <https://au.indeed.com/career-advice/career-development/culturally-appropriate-communication-techniques#:~:text=Many%20strategies%20for%20cross%2Dcultural,aware%20of%20appropriate%20body%20language> (Accessed on 24/10/2026)

to preserve relationships and prevent the dispute from escalating to adversarial processes such as arbitration and litigation⁴⁸.

Another cardinal approach for the success of mediation is the ability of parties to retain maximum control over the process and outcome. Party autonomy is a fundamental principle in negotiation and other Appropriate Dispute Resolution (ADR) processes including mediation and arbitration which gives parties the power to control and design the dispute resolution process according to their own terms⁴⁹. It has been observed that under this principle, parties derive the power to make choices, geared towards resolution of the dispute⁵⁰. Party autonomy is therefore a fundamental tenet in negotiation and ADR since it allows disputing parties have the freedom to shape their own dispute resolution process and have maximum control over both the process and the outcome. In particular, in the context of negotiation, party autonomy allows the disputing parties to retain maximum control over the process and outcome by avoiding outside interference⁵¹. In addition, this approach allows disputing parties to frame the problem at the early stage. Through this, parties can work through the problem together by active listening, cooperation, empathy and mutual problem-solving thus retaining maximum control over the process and outcome⁵².

Through the foregoing, it is possible to strengthen the role of negotiation as a primary conflict management tool for justice, equity and fairness.

4.0 Conclusion

Negotiation is one of the most basic and fundamental tools of conflict management. Negotiation is part and parcel of human life and is practiced in virtually all fields of human activity on a daily basis with people often discussing to meet their respective needs, concerns and interests and solve conflicts⁵³. The appropriateness of negotiation lies in its ability to promote collaboration, preserve relationships, address the root-causes of conflicts, and promote sustainable and durable outcomes. However, in light of current challenges, it is imperative to strengthen the role of negotiation as a primary conflict management tool. In particular, by tackling power imbalances, enhancing voluntary participation, promoting collaboration, complying with negotiated outcomes, and retaining maximum control over the process and outcome, it is possible to strengthen the place of negotiation as a primary conflict management tool for fairness and justice.

⁴⁸ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

⁴⁹ Nairobi Centre for International Arbitration., 'Party autonomy in mediation: Does it matter?' Available at <https://ncia.or.ke/wp-content/uploads/2023/10/Party-autonomy-in-mediation-Does-it-matter.docx.pdf> (Accessed on 24/10/2026)

⁵⁰ Ibid

⁵¹ Maiese. M., 'Negotiation' Op Cit

⁵² Ibid

⁵³ United Nations., 'Fundamental of Negotiation' Op Cit

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